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SUBJ:THIRD SESSION OF INTERGOVERNMENTAL COMMITTEE
(IGC III)ON DRAFTING UNIDO CONSTITUTION: UP OR DOWN
ISSUES OF U.S. RATIFICATION

REF: (A) STATE 57963, (B) VIENNA 4524, (C) STATE 139549,
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1. SUMMARY. THE U.S. DELEGATION MUST CONTINUE TO
NEGOTIATE WITH THE PURPOSES, ON THE ONE HAND, TO ACHIEVE
AN AGREED CONSTITUTIONAL TEXT WITH THE HIGHEST PROBABILITY
OF RATIFICATION BY THE USG AND, ON THE OTHER HAND, TO
AVOID THE REALITY OR APPEARANCE THAT THE USG ALONE WAS
RESPONSIBLE FOR THE FAILURE OF THE NEGOTIATIONS TO
REACH AGREEMENT. THERE ARE LIMITS, HOWEVER, TO WHAT
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WOULD BE ACCEPTABLE COSTS IN ORDER TO ACHIEVE EITHER
OF THESE OBJECTIVES. IN PARTICULAR, IF IGC III MOVES
QUICKLY TOWARD AN AGREED TEXT, THE DELEGATION SHOULD
NOT JOIN A CONSENSUS AND THE U.S. EXECUTIVE BRANCH WILL

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NOT RECOMMEND RATIFICATION OF THE RESULTANT TREATY
UNLESS THE CONSTITUTION/TREATY PROVISIONS ARE SATISFACTORY
ON 1) WITHDRAWAL, 2) DUAL BUDGET, AND 3) SOME COMBINATION
OF WEIGHTED VOTING (REFTEL A) AND/OR A PROGRAM BUDGET
COMMITTEE (REFTEL C). END SUMMARY.

2. WITHDRAWAL (ARTICLE 5). THE WITHDRAWAL PROVISION
GIVING THE GREATEST PROBABILITY OF USG RATIFICATION
WOULD BE THE SECRETARIAT DRAFT FORMULATION CLARIFIED
AS FOLLOWS (ASSOCIATE MEMBERSHIP MAY BE USED AS A
TRADING COUNTER). QUOTE 1. A MEMBER OR ASSOCIATE
MEMBER MAY WITHDRAW FROM THE ORGANIZATION BY DEPOSITING
AN INSTRUMENT OF DENUNCIATION OF THIS CONSTITUTION
WITH THE DEPOSITARY. 2. WITHDRAWAL SHALL TAKE EFFECT
IMMEDIATELY, EXCEPT THAT THE EXISTING FINANCIAL
OBLIGATIONS TO THE ORGANIZATION OF A MEMBER OR ASSOCIATE
MEMBER, INCLUDING THOSE FOR THE FISCAL PERIOD DURING
WHICH THAT MEMBER OR ASSOCIATE MEMBER WITHDRAWS, SHALL
NOT BE AFFECTED BY WITHDRAWAL. UNQUOTE. AT A MINIMUM,
THE U.S. COULD JOIN CONSENSUS ON THE ORIGINAL SECRETARIAT
DRAFT ARTICLE OR THE GROUP B DRAFT ARTICLE. PLEASE
NOTE: PARA 6 OF REFTEL C WAS INCORRECT IN SAYING THAT
THE G-77 WITHDRAWAL ARTICLE OFFERS ADEQUATE PROTECTION
TO U.S. INTERESTS. THE U.S. CAN NOT, RPT, NOT JOIN A
CONSENSUS ON ARTICLE 5 OF THE G-77 TEXT.

3. DUAL BUDGET (GROUP B TEXT ARTICLE 10 BIS). THE
DELEGATION HAS LEAST FLEXIBILITY ON THIS ISSUE. ARTICLE
10 BIS (QUOTED IN REFTEL A, PARA 9) WITH ITS COMPLETE
PAYMENT OF OVERHEAD COSTS FROM VOLUNTARY CONTRIBUTIONS
HAS THE ;IGHEST PROBABILITY OF WINNING USG RATIFICATION.
IN SPITE OF PRACTICES IN VARIOUS PARTS OF THE UN SYSTEM
TO THE CONTRARY, THE US FOR MANY YEARS HAS OPPOSED
IN PRINCIPLE THE FUNDING OF TECHNICAL ASSISTANCE BY
ASSESSED CONTRIBUTIONS. THE DEPT IS AWARE OF THE
ARGUMENT THAT ARTICLE 10 BIS (BY NOT ALLOWING ANY
HEADQUARTERS EXPENDITURES IN DIRECT SUPPORT OF TECHNICAL
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ASSISTANCE TO BE COVERED BY ASSESSED CONTRIBUTIONS)
UNFAIRLY SUBJECTS UNIDO TECHNICAL ASSISTANCE PROGRAMS
TO LIMITS AND UNCERTAINTIES NOT PLACED UPON OTHER
SPECIALIZED AGENCIES' TECHNICAL ASSISTANCE PROGRAMS.
MISSION ASKS IN REFTEL B, PARA 4 HOW DEPT ENVISAGES
THAT COSTS OF OVERHEAD EXPENSES NOW COVERED IN THE
PRESENT UNIDO BY ASSESSED CONTRIBUTIONS WOULD BE COVERED
IN A UNIDO SPECIALIZED AGENCY CONTROLED BY ARTICLE 10
BIS. FIRST, DEPT DOES NOT ENVISAGE THAT RECIPIENT
COUNTRIES WILL PAY FOR WHATEVER GAP MAY EXIST BETWEEN
UN DEVELOPMENT PROGRAM (UNDP) OVERHEAD PAYMENTS FORMULA
AND THE ACTUAL COSTS TO UNIDO OF PROJECT IMPLEMENTATION.

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SECOND, THE DEPT DOES NOT ENVISAGE UNDP ADOPTING A DIFFERENTIAL OVERHEAD COSTS FORMULA BY WHICH IT WOULD PAY A HIGHER PERCENTAGE TO UNIDO THAN TO OTHER SPECIALIZED AGENCIES, EVEN IF GROUP B CONTRIBUTORS WERE TO ATTEMPT TO EARMARK THEIR UNDP CONTRIBUTIONS TO COVER

SUCH A DIFFERENTIAL. THE DEPT, THEREFORE, ENVISAGES THAT ALL HEADQUARTERS EXPENDITURES (IN CASES OF DIRECT UNIDO TECHNICAL ASSISTANCE PROJECTS) AND THAT ALL HEADQUARTERS EXPENDITURES ABOVE THOSE REIMBURSED BY UNDP (IN CASES WHERE UNIDO IS AN EXECUTING AGENCY FOR UNDP) WILL BE COVERED BY DIRECT VOLUNTARY CONTRIBUTIONS TO UNIDO'S INDUSTRIAL DEVELOPMENT FUND (IDF). IN RESPONSE TO THE OBVIOUS QUERY WHETHER THE U.S. INTENDS TO MAKE VOLUNTARY CONTRIBUTIONS TO THE IDF, WE CAN NOT AT THIS TIME PREDICT. IN GENERAL, THE U.S. INTENDS TO BE EVEN HANDED WITH UNDP, UNIDO, AND OTHER SPECIALIZED AGENCIES BY SEEKING TO PHASE OUT THE UN REGULAR PROGRAM OF TECHNICAL ASSISTANCE AND TO INTRODUCE ARRANGEMENTS IN ALL NEW SPECIALIZED AGENCIES WHICH WILL INCLUDE DUAL BUDGETS AND VOLUNTARY FUNDS FOR TECHNICAL ASSISTANCE.

4. THE DELEGATION SHOULD POINT OUT, AS APPROPRIATE, THAT THE G-77 INFORMAL WORKING PAPER FOR THE RESTRUC-TURING OF THE UNITED NATIONS SYSTEM APPEARS TO BE ARGUING FOR THE ELIMINATION OF THE ADMINISTRATION OF TECHNICAL ASSISTANCE BY A UNIT SUPPORTED BY ASSESSED CONTRIBUTIONS IN FAVOR OF A MECHANISM SUPPORTED BY VOLUNTARY CONTRIBUTIONS, PRESUMABLY THE RESTRUCTURED
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UNDP. THE G-77 PAPER STATES, QUOTE, THE DEPT OF ECONOMIC AND SOCIAL AFFAIRS SHOULD BE DIVESTED OF OPERATIONAL RESPONSIBILITIES. THE FUTURE LOCATION OF THESE RESPONSIBILITIES WILL BE EXAMINED IN THE CONTEXT OF THE DECISION TO BE TAKEN ON OPERATIONAL ACTIVITIES (SECTION V) UNQUOTE.

5. THE DELEGATION MAY POINT OUT, ESPECIALLY IF OTHER GROUP B COUNTRIES SHARE THESE NOTIONS, THAT WITHIN THE SOCIETIES OF MOST MAJOR CONTRIBUTORS INDUSTRIAL ACTIVITIES AND DECISIONS DEPEND MORE UPON PRIVATE SECTOR ORGANIZATIONS WHILE THE SOCIAL WELFARE ACTIVITIES AND DECISIONS REPRESENTED BY MOST OF THE OTHER SPECIALIZED AGENCIES DEPEND MORE UPON PUBLIC SECTOR ORGANIZATIONS. IN ANALOGY WITH INTERNATIONAL ORGANIZATION ASSESSMENTS, WE ARE ACCUSTOMED TO BEING TAXED DOMESTICALLY TO SUPPORT SOCIAL WELFARE ACTIVITIES BUT NOT TO SUPPORT INDUSTRIALIZATION ACTIVITIES. AS A RESULT, THERE IS LESS SUPPORT IN THE US PUBLIC AND PRIVATE SECTORS FOR FUNDING ANY PART OF UNIDO

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TECHNICAL ASSISTANCE PROGRAMS FROM ASSESSED CONTRIB-
UTIONS THAN FOR ASSESSED FUNDING OF TECHNICAL ASSISTANCE
BY OTHER SPECIALIZED AGENCIES SUCH AS THE WORLD HEALTH
ORGANIZATION. THEREFORE, DOMESTIC POLITICAL REALITIES
MAY MAKE IT SEEM TOLERABLE AND EVEN EQUITABLE FOR UNIDO
TECHNICAL ASSISTANCE PROGRAMS TO OPERATE, AT LEAST
TEMPORARILY, AT A DISADVANTAGE VIS-A-VIS OTHER
SPECIALIZED AGENCIES.

6. THE U.S. COULD NOT JOIN A CONSENSUS ON A TEXT
BY WHICH UNIDO SPECIALIZED AGENCY OPERATIONAL PROGRAM
OVERHEAD COSTS WERE FINANCED ON THE SAME BASIS AS
UNDER GA RES. 2152 (XXI). ANY PROPOSED FORMULATION
MODIFYING GROUP B ARTICLE 10 BIS WOULD HAVE TO BE
GIVEN CAREFUL STUDY BY THE DEPARTMENT.

7. WEIGHTED VOTING AND/OR PROGRAM BUDGET COMMITTEE
(ARTICLES 8, 11, 12, AND 13). THE FORMULATIONS WITH
GREATEST POSSIBILITY OF WINNING U.S. RATIFICATION ARE
CONTAINED IN REFTEL A PARAS 11 THROUGH 15 AND REFTEL C,
PARA 9. (ALSO SEE CLARIFICATION IN PARAS 8 AND 9 BELOW).
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ANY PROPOSALS FOR THEIR COMBINATION OR THEIR MODIFICA-
TION TO LESSEN CONTROL BY MAJOR DONORS SHOULD BE
SUBMITTED TO THE DEPARTMENT. MEANWHILE, THE DELEGATION
IS AUTHORIZED TO NEGOTIATE AD REFERENDUM IN SEARCH OF
A COMPROMISE.

8. THIS PARAGRAPH EXPLAINS IN GREATER DETAIL THAN
REFTEL C, PARA 9, (D) THE ARRANGEMENT WHICH THE U.S.
IS PREPARED TO CONSIDER AS PART OF A POSSIBLE
ALTERNATIVE SET OF CONSTITUTIONAL PROVISIONS TO
SUBSTITUTE FOR WEIGHTED VOTING. PARA 9 (D) OF REFTEL C
STATES THAT THE COMPOSITION OF THE PROGRAM BUDGET
COMMITTEE (PBC) IS TO BE MORE REPRESENTATIVE OF GROUPS
B AND D THAN THE PRESENT INDUSTRIAL DEVELOPMENT BOARD.
THE U.S. DELEGATION SHOULD SEEK AS A FIRST PREFERENCE
TO HAVE THIS CRITERION (AS WELL AS THE OTHERS PRESENTED
IN REFTEL C, PARA 9) SET FORTH AS A G-77 COUNTERPROPOSAL
TO WEIGHTED VOTING. IF THAT ISN'T POSSIBLE, THEN THE
CRITERIA SHOULD BE PRESENTED AS A GROUP B POSITON OR
THE POSITION OF AS MANY COUNTRIES IN GROUP B AS WILL
JOIN THE U.S. IF THE PBC IS SERIOUSLY UNDER NEGOTIATION
AS AN ALTERNATIVE TO WEIGHTED VOTING, THEN IT SHOULD
ALSO BE MADE KNOWN THAT THE U.S. EXPECTS THAT THE
PROPORTION OF THE ASSESSED BUDGET PAID BY THE MEMBERS
OF GROUP B WHO ARE REPRESENTED ON THE PBC VIS-A-VIS
THE OTHER MEMBERS OF THE PBC SHOULD BE APPROXIMATELY
THE SAME PROPORTION AS THAT PAID BY THE MEMBERS OF
GROUP B ON THE PRESENT IDB VIS-A-VIS OTHER MEMBERS OF

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THE IDB. (FYI: BY ,APPROXIMATELY" THE DEPT MEANS
"AT LEAST." MAKING THE LOGICAL ASSUMPTION THAT THE
UNIDO SCALE OF ASSESSMENTS WOULD ROUGHLY PARALLEL THE

UN'S, THE PRESENT PROPORTION OF THE BUDGET PAID BY
GROUP B MEMBERS ON THE IDB IS 60 PERCENT AND BY GROUP D,
15 PERCENT. ALSO FYI: TO MEET THE CRITERION OF
REFTEL C, PARA 9, (D), ON A PBC OF 15 THE GROUP
COMPOSITION WOULD BE A: 5; B: 6; C 2; AND D 2. ON A
PBC OF 20 THE GROUP COMPOSITION WOULD BE A: 7; B: 7;
C: 3; AND D:3.) FINALLY, THE COMPOSITION OF THE PBC
MUST BE SPECIFIED IN THE CONSTITUTION BY NUMBER OF
MEMBERS FROM EACH GROUP.
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9. THIS PARAGRAPH EXPLAINS IN GREATER DETAIL THAN
REFTEL C, PARA 9, (B) THOSE PROCEDURES FOR AMENDMENT
OF THE COMPOSITION OR POWERS OF THE PBC WHICH DEPT
CONSIDERS WILL ADEQUATELY PROTECT U.S. INTERESTS.
PARAGRAPH 9 (B) OF REFTEL (C) STATES THAT THE COMPOSITION
AND POWERS OF THE PBC ARE AMENDABLE ON THE SAME BASIS
AS THE MOST RESTRICTIVE AMENDMENT PROCEDURES FOR THE
CONSTITUTION ITSELF. THE FOLLOWING AMENDMENT PROVISION
IS AN ALTERNATIVE INSTRUCTION TO REFTEL (D), PARA 4
IF PBC PROVISIONS ARE SUBSTITUTED FOR WEIGHTED VOTING
PROVISIONS. THE PERTINENT PORTION OF THE GROUP B TEXT
OF ARTICLE 20 WOULD READ: QUOTE AMENDMENTS TO THIS
CONSTITUTION SHALL REQUIRE THE APPROVAL BY THE CONFERENCE,
TAKING INTO ACCOUNT ANY OBSERVATIONS OF THE BOARD, BY
A TWO-THIRDS MAJORITY OF ALL THE MEMBERS OF THE
CONFERENCE AND, IN THE CASE OF AMENDMENT OF THE
COMPOSITION OR POWERS OF THE PROGRAM BUDGET COMMITTEE,
THESE AMENDMENTS SHALL IN ADDITION REQUIRE THAT THIS
TWO-THIRDS MAJORITY INCLUDE THE AFFIRMATIVE VOTE OF
SUCH MEMBERS AS WOULD ALSO CONSTITUTE A TWO-THIRDS
MAJORITY ON THE PROGRAM BUDGET COMMITTEE UNQUOTE. THE
RATIONALE OF REFTEL (D), PARA 4 APPLIES TO BOTH
AMENDMENT POSITIONS.

10. IF NEGOTIATIONS ARE CONCLUDED AT IGC III WITH
ACHIEVEMENT OF THE MAXIMUM U.S. POSITIONS ON WITHDRAWAL
AND A DUAL BUDGET AND SUCH PARTS OF THE WEIGHTED VOTING/
PROGRAM BUDGET COMMITTEE PROVISIONS AS THE DEPT DETER-
MINED WOULD PROTECT ESSENTIAL U.S. INTERESTS, THEN THE
U.S. DELEGATION (BARRING OTHER EGREGIOUS AND UNFORESEEN
PROVISIONS) COULD JOIN A CONSENSUS. IF THE MAXIMUM
U.S. POSITIONS ON WITHDRAWAL AND A DUAL BUDGET WERE
ACHIEVED AND WEIGHTED VOTING/PROGRAM BUDGET COMMITTEE
PROVISIONS WERE REDUCED TO THE G-77 TEXT PROVISIONS (A
MERE 2/3 VOTE IN IDB AND CONFERENCE), THE U.S. DELEGATION
COULD NOT JOIN THE CONSENSUS AND THE EXECUTIVE BRANCH

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WOULD NOT RECOMMEND RATIFICATION. THE USG RESPONSE
TO OTHER CONTINGENT RESULTS WOULD HAVE TO BE CAREFULLY
EXAMINED.
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11. AS PREVIOUS INSTRUCTIONS AND PUBLIC U.S. STATEMENTS
HAVE INDICATED, THE QUESTION OF EVENTUAL U.S. MEMBERSHIP
IN A NEW SPECIALIZED AGENCY WILL TURN ON CONSIDERATIONS
OF THE EXTENT TO WHICH THE NEW ORGANIZATION CAN BE
EXPECTED TO ACCORD WITH BROAD U.S. INTERESTS. THE
DELEGATION CAN NOT MAKE ANY PROMISES THAT EVEN IF ALL
OUR DEMANDS FOR CONSTITUTIONAL WORDING ARE MET THAT THE
U.S. WILL THEN JOIN. ROBINSON UNQUOTE KISSINGER

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